

From: [Wren Stenger](#)
To: [Barbara Nann](#)
Cc: [Gary Miller](#); [John Meyer](#); [Carlos Sanchez](#); [Dipanjana Bhattacharya](#); [Mark Peycke](#)
Subject: Re: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .
Date: 11/19/2009 01:11 PM

Barbara, I like the idea of including the AOC and a date certain to meet with the PRPS in the letter. We need to also include in the letter if there is anything that is needed to address risk. I have asked John to get that information to you and Gary. This may hold up DOJ's letter but we need to include everything in the letter, the draft AOC and SOW that we give to the PRPs. .

▼ [Re: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .](#)

Re: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . . 

Barbara Nann to: Mariani, Tom (ENRD)

11/19/2009
11:26 AM

Cc: Carlos Sanchez, Gary Miller, Lydia Johnson, Mark Peycke, Pamela Travis, Wren Stenger

Do you want to attach the AOC to the letter?

Barbara A. Nann
Assistant Regional Counsel
EPA Region 6 (6RC-S)
1445 Ross Avenue
Dallas, TX 75202
phone: (214) 665-2157
fax: (214) 665-6460
nann.barbara@epa.gov

▼ [Re: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .](#)

Re: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .

Mariani, Tom (ENRD) to: Wren Stenger

11/18/2009
11:28 PM

Cc: Barbara Nann, Mark Peycke, Pamela Travis, Gary Miller, Carlos Sanchez, Lydia Johnson

OK; I'll make a cleaned-up letter go out this week. TM

Sent Using U.S. DOJ/ENRD BES Server

From: Stenger.Wren@epamail.epa.gov
<Stenger.Wren@epamail.epa.gov>
To: Mariani, Tom (ENRD)
Cc: Nann.Barbara@epamail.epa.gov
<Nann.Barbara@epamail.epa.gov>; Peycke.Mark@epamail.epa.gov
<Peycke.Mark@epamail.epa.gov>; Travis.Pamela@epamail.epa.gov
<Travis.Pamela@epamail.epa.gov>; Miller.Gary@epamail.epa.gov
<Miller.Gary@epamail.epa.gov>; Sanchez.Carlos@epamail.epa.gov
<Sanchez.Carlos@epamail.epa.gov>; Johnson.Lydia@epamail.epa.gov
<Johnson.Lydia@epamail.epa.gov>
Sent: Wed Nov 18 09:21:45 2009
Subject: RE: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .

Tom, Mark was not too keen on an alternate approach (not using an enforceable instrument). I agree we should stick to the normal approach (using AOC for a removal to address the tanks and the cap.) Regarding offering a meeting, I think we need to make a meeting available before year end so they can see what we have to have in the AOC and for the scope of work. This site is still on the construction completion plans for FY2010. We really need to peddle fast if we want to accomplish this. Thanks

**RE: GULFCO: Proposed Text for Response to Mahley Ltr
dated 10/16/09 . . .**

Mariani, Tom (ENRD)

to: Pamela Travis

11/17/2009 06:25 PM

Cc: Mark Peycke, Wren Stenger, Barbara Nann

Pam: Thanks. Should I understand this to mean Wren and Barbara have done whatever checks they were going to do and the Agency is going to stick with the normal plan of work of this kind being done only under a CERCLA instrument that can be enforced? I think that was the issue Wren / Barbara had wanted to check out with Sam C (perhaps).
TM

From: Travis.Pamela@epamail.epa.gov
[mailto:Travis.Pamela@epamail.epa.gov]
Sent: Tuesday, November 17, 2009 5:29 PM
To: Mariani, Tom (ENRD)
Cc: Peycke.Mark@epamail.epa.gov
Subject: Fw: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .

Tom -- Gary asked that I forward this directly to you.

----- Forwarded by Pamela Travis/R6/USEPA/US on 11/17/2009 04:28 PM -----

Re: Fw: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 .
.. [Link](#)

Pamela Travis

to: Garyg Miller

11/17/2009 04:19 PM

Cc: Barbara Nann, Mark Peycke

Gary -- the overall approach seems like a sound one to me. There are a number of nit-picky edits that I will try to copy into the draft letter in bold. Hope this is helpful.

Thank you for your letter of October 16, in which the PRPs propose removing tanks **from** the Gulfco Marine Site (Site) "as a voluntary removal action, to be carried out in accordance with the UAO and past practice at the Site."

We have studied this proposal (including the work plan which accompanied it) and have considered the reasons offered in support of the proposal.

The points of the October 18 letter do not overcome the prudence of the approach based on an Administrative Order on Consent. The work contemplated here does not fall within the scope of the current UAO, which is centered on RI/FS work, and the scope and nature of the tank work is much more extensive than **the** kinds of activities listed in the October 18 letter. The likely duration of the hoped-for tank work can be debated, but has been estimated by the PRPs - at different times - to take **anywhere** from a few weeks to a couple **of** months - in any event a period of time too long to proceed except under an **enforceable** CERCLA instrument.

Even though this exact proposal must be rejected, EPA nonetheless appreciates the PRPs' interest in performing this work and suggests a brief meeting at the Site to see whether the exact scope of the work necessary at this time is something the PRPs are willing to perform under a CERCLA Administrative Order on Consent.

As noted in the letter to you from this **Summer** (insert date), if all work that must be done under any remedial scenario can be accomplished now, the PRPs could be much closer to having the Site ready for re-use, something we understand to be a principal **objective** for the PRPs (and a good result for all if it can be achieved).

The contemplated tank work, along with some repair of the cap that has been part of the Site for some time, is work that will be needed for the Site under any possible remedial choice. That work must be performed under an enforceable CERCLA instrument, but if the PRPs will perform the work under such an instrument, then there may be no reason to conclude any of the other issues related to this Site at this time, thereby keeping the AOC focused only on this work.

If the **PRPs** could at least consider this approach, EPA suggests a meeting at the Site to walk through the exact needs for work at this time, so that the PRPs can consider whether they are willing to legally commit to **performance** of that work under a CERCLA AOC.

If the **PRPs** are willing to pursue this course please let Barbara Nann or me know. [Give deadline? Offer meeting dates? Other?]

Fw: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .

Garyg Miller

to: Pamela Travis

11/17/2009 04:00 PM

Pam - are you acting for Mark today? Please see the draft letter below from DOJ - we (myself, Carlos, & Wren) are OK with it. We'd like to send it out (or ask Tom to send it) as soon as possible - the PRPs are planning a letter on their own, and we would like to get ours out first. Not aware of any issues that Barbara Nann had with it. Is Mark and/or Barb N back tomorrow?

Thanks,

Gary Miller, P.E.
Remediation Project Manager
EPA Region 6 - Superfund (6SF-RA)
(214) 665-8318
miller.garyg@epa.gov

----- Forwarded by Garyg Miller/R6/USEPA/US on 11/17/2009 03:55 PM -----

From: "Mariani, Tom (ENRD)" <TMariani@ENRD.USDOJ.GOV>
To: Barbara Nann/R6/USEPA/US@EPA, Garyg Miller/R6/USEPA/US@EPA
Cc: Mark Peycke/R6/USEPA/US@EPA, Wren Stenger/R6/USEPA/US@EPA
Date: 11/05/2009 12:52 AM
Subject: GULFCO: Proposed Text for Response to Mahley Ltr dated 10/16/09 . . .

Barbara and Gary -

Here is possible response to PRPs last letter. Sorry it took me a bit longer to send than I had planned. I hope this delay gave time for completion of the related tasks the program had in mind (check out the SOW, confirm which tasks must be done regardless of later remedial choice, etc.).

Also, I'm cc-ing Mark P and Wren S on this item because in my last docket conference call with them, there was some suggestion that Program might want to think through this approach again before we execute it through this letter. I told Mark and Wren that I'd send them the rough draft of letter as a reminder, in case Region does want to reconsider this course.

Let me know how you'd like to change letter. I'll be on road Thursday and back in office Friday. TM

Text of Draft Response . . .

Re: Gulfco Marine Site, Freeport, Texas

Dear Bill:

Thank you for your letter of October 16, in which the PRPs propose removing tanks form the Gulfco Marine Site (Site) "as a voluntary removal action, to be carried out in accordance with the UAO and past practice at the Site."

We have studied this proposal (including the work plan which accompanied it) and have considered the reasons offered in support of the proposal.

The points of the October 18 letter do not overcome the prudence of the approach based on an Administrative Order on Consent. The work contemplated here does not fall within the scope of the current UAO, which is centered on RI/FS work, and the scope and nature of the tank work is much more extensive than kinds of activities listed in the October 18 letter. The likely duration of the hoped-for tank work can be debated but has been estimated by the PRPs - at different times - to take anywhere from a few weeks to a couple months - in any event a period of time too long to proceed except under an enforceable CERCLA instrument.

Even though this exact proposal must be rejected, EPA nonetheless appreciates the PRPs' interest in performing this work and suggests a brief meeting at the Site to see whether the exact scope of the work necessary at this time is something the PRPs are willing to perform under a CERCLA Administrative Order on Consent.

As noted in the letter to you from this Summer (insert date), if all work that must be done under any remedial scenario can be accomplished now, the PRPs could be much closer to having the Site ready for re-use, something we understand to be a principal object for the PRPs (and a good result for all if it can be achieved).

The contemplated tank work, along with some repair of the cap that has been part of the Site for some time, is work that will be needed for the Site under any possible remedial choice. That work must be performed under an enforceable CERCLA instrument, but if the PRPs will perform the work under such an instrument, then there may be no reason to conclude any of the other issues related to this Site at this time, thereby keeping the AOC focused only on this work.

If the the PRP's could at least consider this approach, EPA suggests a meeting at the Site to walk through the exact needs for work at this time, so that the PRPs can consider whether they are willing to legally commit to performance of that work under a CERCLA AOC.

If the PRP's are willing to pursue this course please let Barbara Nann or me know. [Give deadline? Offer meeting dates? Other?]

Sincerely,

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